



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

Minutes of the September 17, 2003 meeting of the  
Commission on Governmental Ethics and Election Practices  
held in the Commission's Meeting Room,  
PUC Building, 242 State Street, Augusta, Maine

Present: Chair Andrew Ketterer; Hon. James O. Donnelly; Hon. David N. Ott. Staff:  
Executive Director Jonathan Wayne; Counsel Phyllis Gardiner; Candidate  
Registrar Gina Pelletier; Administrative Assistant Kendra Danforth.

At 9:16 a.m., Chair Ketterer convened the meeting. The Commission considered the  
following items:

Agenda Item #1 – Ratification of minutes of August 13, 2003 meeting

Mr. Ott moved, Mr. Donnelly seconded, and the members voted unanimously to adopt the  
draft minutes of the August 13, 2003 meeting.

Agenda Item #2 – Think About It

The Commission mailed a letter to the Think About It political action committee inquiring  
whether the PAC's two contributors, Thomas Tureen and Marnell Corrao, had received  
funds from other sources that might obligate them to file campaign finance reports with the  
Commission. Attorney Daniel L. Walthen, responding on behalf of Think About It, stated  
that Marnell Corrao had received funds from no other sources in support of the ballot  
question and that Thomas Tureen had been reimbursed by Marnell Corrao for goods and  
services he purchased or donated to the PAC.

In response to questions by the members of the Commission, Mr. Wayne and Ms. Gardiner  
described their understanding of the reimbursements from Marnell Corrao to Mr. Tureen  
and how the PAC had reported the contributions from both entities. Mr. Wayne and Ms.  
Gardiner expressed their views that Mr. Tureen and Marnell Corrao did not appear to meet  
the definition of a PAC. The Commission members directed Mr. Wayne to write a letter to  
Think About It requesting that the PAC indicate in future reports filed with the  
Commission which of Mr. Tureen's contributions to the PAC had been reimbursed by  
Marnell Corrao.

Agenda Item #3 – Lawrence P. Greenlaw, Jr.

Because Mr. Greenlaw was expected to arrive late, the Commission members tabled their  
consideration of this item until later in the meeting.

#### Agenda Item #4 – Shawn MacDonald

Shawn MacDonald was a traditionally funded candidate for the House of Representatives in 2002. He filed the 6-day pre-general election report on time, but the report did not include all contributions and expenditures that were made during the time period covered by the report. He also did not file a 42-day post-election report. The campaign activity subsequently was included in a report dated July 14, 2003.

Mr. MacDonald made a presentation to the Commission in which he stated that his treasurer misunderstood the correct reporting period for the October 30, 2002 report, and that the penalty for 42-day post-election report should be based on a percentage of 1% for first violations -- rather than 3% for second violations -- because MacDonald did not receive a monetary penalty for a previous violation.

The Commission members noted that Mr. MacDonald's campaign had attempted to file the 6-day pre-general election report on time, that the statutory penalties were significantly greater than the total campaign activity in Mr. MacDonald's campaign, and that some candidates recruited for the 2002 elections were unaware of the filing requirements.

Mr. Donnelly moved that the 6-day pre-general election report be considered filed on time, and that the penalty for the 42-day post-general election report be calculated according to a 1% rate rather than a 3% rate, which would result in a penalty of \$1,406.98. Chair Ketterer seconded the motion, and the Commission members voted unanimously in favor of the motion.

#### Agenda Item #3 – Lawrence P. Greenlaw, Jr.

On July 21, 2003, Lawrence Greenlaw, a candidate for County Commissioner of Hancock County, filed the 42-day post-general election report that was due on December 17, 2002. The staff had calculated the statutory penalty to be \$2,753.55 using the 3% factor because Mr. Greenlaw had previously filed a report late. Mr. Greenlaw made a presentation in which he admitted receiving the reminder letters from the Commission staff, but did not file the report after the deadline because he was looking for a record of an expenditure.

The Commissioners discussed the staff's procedures for sending reminder and penalty letters. Mr. Donnelly moved that because Mr. Greenlaw's previous violation did not result in the issuance of a written penalty determination, the Commission calculate the penalty for the 42-day post-general election report based upon a 1% factor rather than a 3% factor, which would result in a penalty of \$918.25. Chair Ketterer seconded the motion, and the Commission members voted unanimously in favor of the motion.

#### Agenda Item #5 – Mainers for Health Care

The Mainers for Health Care PAC filed a report that was due on April 10, 2003 four days late. The staff calculated the statutory penalty to be \$1,923.64. The PAC submitted a letter arguing that it should not be penalized for the late reporting of non-electoral activity. Mr. Wayne recommended a 50% reduction in the penalty because the PAC had not previously filed a late report. The Commission members considered a presentation by Timothy Belcher, Esq. on behalf of the PAC. Mr. Donnelly moved, Mr. Ott seconded, and

the Commission members voted unanimously to assess the penalty of \$961.82 recommended by the staff.

Agenda Item #6 – People for a Strong Maine Economy and Richard Pelletier.

People for a Strong Maine Economy was assessed a civil penalty of \$942.24 on April 9, 2003 for failing to timely file 48-Hour PAC reports of expenditures made during the period of October 26-28, 2002. Mr. Wayne reported that on the morning of September 17, 2003, the Commission received a payment in the amount of \$500 along with a letter stating that the balance would be paid at the beginning of October. The Commission members voted to table the matter until its October 8 meeting.

Agenda Item #7 – Report on Maine Clean Election Fund

Mr. Wayne presented a draft report that included an estimate of revenue in the Maine Clean Election Fund that would be available for payments to certified candidates in the 2004 elections, and an estimate of the likely demand for Clean Election funds. The draft report stated that approximately \$3.7 million would be available to pay candidates in the 2004 elections after personnel and administrative costs were deducted. The draft report offered two scenarios: a moderate scenario and a “high demand scenario” in which there was an increase in the number of candidates and in the rate of participation in the Maine Clean Election Act. Mr. Donnelly recommended that participation in the MCEA may exceed the number of participants in the high demand scenario, and the Commission members recommended other clarifications to the report. Mr. Wayne stated that he would make the requested changes.

Agenda Item #8 – Possible Changes to the Election Law and Commission Rules

The Commission considered a number of possible changes to the Election Law and Commission Rules that Mr. Wayne had previously distributed to the members. The Commission requested that Mr. Wayne draft the following changes to the statutes and rules for submission to the Legislature and further consideration by the Commission:

adopt a rule that goods or services for the general election that were purchased by a traditional candidate before the primary election will be included in the public funds calculation for any MCEA opponent in the general election;

modify the candidate reporting form so that candidates are required to designate whether pre-primary expenditures were made for the primary election or the general election;

adopt a specific complaint procedure for MCEA candidates who wish to make a claim that expenditures made by their opponent before the primary election were for general election goods and services;

clarify by rule that expenditures and obligations must be reported *at the earliest of*:

- the placement of an order for a good or a service;

- the delivery of a good or performance of a service by a vendor;
- a promise or an agreement (including an implied one) that an expenditure will be made; and
- the making of a payment to a vendor;

shorten the time period for reporting large expenditures from the current deadline of 48 hours after the expenditure to within 24 hours in order to hasten disclosure and to trigger matching funds to any opposing MCEA candidate one business day earlier;

amend the Commission's independent expenditure rule to clarify the reporting schedule and to require the reporting of all independent expenditures in excess of \$100 per candidate;

broaden the statutory definition of mitigating circumstances to give the Commission more discretion to waive all or part of a civil penalty;

adopt a rule that the late reporting or misreporting of contributions or expenditures that has the effect of delaying or denying matching funds to an MCEA candidate will be considered a violation; and

recommend greater authority to assess civil penalties for violations of the Election Law for which, under current law, there is only a criminal penalty or no penalty whatsoever.

In addition, the Commission authorized Mr. Wayne to draft additional rules for its future consideration at the October meeting.

#### Other

The Commission members requested that the Commission's counsel consider whether Commission members may continue to participate in Commission meetings after their terms expire.

Dated: October \_\_\_\_, 2003

Respectfully submitted,

Jonathan Wayne  
Executive Director

